

1                                   **MINUTES OF THE COTTONWOOD HEIGHTS CITY**  
2                                   **PLANNING COMMISSION MEETING**

3  
4                                   **Wednesday, July 18, 2007**  
5                                   **7:00 p.m.**  
6                                   **Cottonwood Heights City Council Room**  
7                                   **1265 East Fort Union Boulevard, Suite 250**  
8

9  
10 ***ATTENDANCE***

11  
12 **Planning Commission Members:**

13  
14 J. Thomas Bowen, Chairman  
15 Geoff Armstrong  
16 JoAnn Frost  
17 Jim Keane  
18 Gordon Nicholl  
19 Sue Ryser  
20

11  
12 **City Staff:**

13  
14 Michael Black, Planning Director  
15 Glenn Symes, Associate Planner  
16 Shane Topham, City Attorney  
17 Sherry McConkey, Planning Coordinator  
18  
19

20  
21 **Others:**

22  
23 David Suiter, Garry Kershaw, Laura Fuller, Joseph Scott, Todd Jensen, Stacey Mayberry, Brad  
24 Barlage, Verl Shell  
25

26 **REGULAR MEETING**  
27

28 Chairman J. Thomas Bowen called the meeting to order at 7:00 p.m. Procedural issues were  
29 reviewed.  
30

31 **1.     Public Comment.**  
32

33 There were no public comments.  
34

35 **2.     Action Item – Zone Change – Joseph Scott.**  
36

37 Associate Planner, Glenn Symes, presented the staff report and stated that the request was from  
38 Joe Scott to rezone seven properties. Mr. Symes noted that the matter was continued from a  
39 previous meeting. The request was to rezone the properties from R-1-8 to R-2-8, which was  
40 consistent with the general plan. He reported that the Planning Commission directed staff and  
41 the City Attorney to investigate development agreements and zoning conditions. Accordingly,  
42 the City Attorney issued a correspondence to the Planning Commission. Mr. Symes stated that  
43 the hatched area shown on the map was removed from the application and the request changed to  
44 six properties rather than seven.  
45

1 (19:03:05) The applicant, Joe Scott, stated that he reduced the number of properties included in  
2 the proposal from seven to six as a result of pressure from staff. He commented that it had been  
3 two years and thought it was time to make a decision.

4  
5 The public hearing was opened.

6  
7 Paul Suttter found that after reviewing the plan, that the layout seemed reasonable. He did not,  
8 however, support all of the properties being rezoned individually. If the applicant were to submit  
9 requests separately, he would be more supportive of it.

10  
11 There were no other public comments. The public hearing was closed.

12  
13 Commissioner Frost had the same concerns as Mr. Suttter. She thought Mr. Scott's intent made  
14 sense. Her concern, however, as a Planning Commissioner was that the other parcels were  
15 "riding on his coat tail" but he was not "holding the reins". That created concern as to the intent  
16 of the property and exactly what was taking place. She realized it was strictly a zoning issue but  
17 had concerns with what was happening on the three properties. She thought it resembled spot  
18 zoning since residential properties were involved.

19  
20 (19:06:10) Commissioner Nicholl sympathized with Mr. Scott and realized he had been involved  
21 in the process for a long time. He stressed that the Commission wanted to do what was right, not  
22 only for applicant, but for the community as well. He didn't want to play "hopscotch", which  
23 was what he felt they were doing. The General Plan identified the area as R-2 and he did not  
24 have a serious problem with that. He did, however, have a problem with taking certain  
25 properties and excluding others. He believed it was much better policy for the City to be  
26 consistent and zone the entire area R-2 rather than being forced to address the issue over and  
27 over again.

28  
29 Commissioner Nicholl stated that the property crossed out on the map had not been properly  
30 noticed for a zone change. Planning Director, Michael Black, reported that the property crossed  
31 out on the map had been noticed. He spoke to Mr. Scott earlier in the day based on the last  
32 Planning Commission Meeting and advised him to think about narrowing down the request.  
33 Mr. Scott decided to remove one of the properties. Commissioner Nicholl's preference was to  
34 clean the whole area up at once.

35  
36 Commissioner Frost remarked that another possibility was to grant Mr. Scott's request. Chair  
37 Bowen responded that that was not possible. Mr. Black stated that if Mr. Scott was given  
38 authorization to change his application tonight, he would have the ability to take the properties  
39 through. The Planning Commission, however, would have to grant authorization to Mr. Scott to  
40 allow him to change his application.

41  
42 Commissioner Armstrong referred to the property in the middle that was not included. Mr. Scott  
43 stated that the property owners were not interested. Mr. Nicholl understood that but wanted to  
44 do what was best for the community. It didn't make sense to him to do R-2 on either side with  
45 R-1 in the middle. Mr. Scott suggested the City address the properties on Mountain Estates  
46 Drive as well since many of the homes there were duplexes. Commissioner Nicholl considered

1 that to be an entirely different issue. Commissioner Frost believed that was hopscotching and  
2 not good policy. Commissioner Nicholl stated that the County did it a long time ago and tried to  
3 rectify the situation by changing the zoning to R-1. As a result, the uses were legal non-  
4 conforming. The problem the City had with Mr. Scott and the timing was the notification for the  
5 center property. Mr. Scott stated that he had addressed the Commission at the last four  
6 consecutive meetings and this was the first he had heard about noticing issues. Commissioner  
7 Nicholl had thought about the area a great deal and believed it had a lot of potential. He thought  
8 it was worthwhile to delay a decision for another few weeks in order to make the proposal better.

9  
10 (19:12:35) Mr. Black reported that the matter could not be noticed properly in two weeks. Also,  
11 Mr. Scott did not have the authorization to include another parcel. Chair Bowen responded that  
12 that was not necessary since the City could initiate it. Commissioner Ryser suggested  
13 Mr. Scott's piece be approved tonight and then have the City work with the rest of the parcels.

14  
15 Commissioner Nicholl asked City Attorney, Shane Topham, if the City had to have an  
16 application in order to change the zoning. Mr. Topham responded that the City Council could  
17 rezone without an application.

18  
19 Commissioner Keane did not feel good about breaking up the application tonight. He agreed that  
20 the area should all be zoned either R-2 or something else. Commissioner Frost commented that  
21 all of the three frontage lots were zoned R-1-8. She was not worried about them being part of the  
22 parcel. Mr. Scott's parcel and the one behind it was a logical parcel. The others were all  
23 configured into existing zones. She was willing to divide Mr. Scott's parcel off. Chair Bowen  
24 stated that if that were done, it would be difficult to put together a cohesive plan for the  
25 remaining properties. Commissioner Frost did not view that as any different than the existing  
26 situation.

27  
28 The possibility of granting the zone change and excluding certain properties was discussed.  
29 Mr. Black advised the Planning Commission to discuss the situation with the City Council to see  
30 what their view was about granting a zone change without the applicant applying for it. He  
31 explained that the Scott and Draper properties could not be approved without approving the rest  
32 of them. Either none or all of the parcels needed to be approved. The applicant, however, if  
33 given authority, could drop any of the properties at any time but could not add any more.  
34 Mr. Scott stated that he was not willing to drop any more parcels. He stated that the neighbors  
35 present helped him get the General Plan changed. He was advised by planning staff to include  
36 them in his application. He was now having a difficult time backing out of his agreement with  
37 the other property owners.

38  
39 Mr. Suitter identified his home on the map and stated that the majority of structures in the area  
40 were duplexes. He thought the rezone should make all of the structures R-2. In response to a  
41 question raised, he reported that most if not all of the structures referred to were built as  
42 duplexes. He thought each of the homes needed to be looked at individually. He remarked that  
43 many of the properties were run down and not taken care of. He did not feel good about the  
44 zoning being changed. He noted that he liked Mr. Scott's home as an individual rezone but  
45 disagreed with the rest. Chair Bowen noted that it was a package deal.

1 (19:22:00) *Commissioner Nicholl moved to approve the plan as presented. Commissioner*  
2 *Armstrong seconded the motion. Vote on motion: J. Thomas Bowen-Nay, Geoff Armstrong-*  
3 *Aye, JoAnn Frost-Nay, Jim Keane-Aye, Gordon Nicholl-Aye, Sue Ryser-Nay. The motion*  
4 *failed.*

5  
6 (19:22:30) *Commissioner Frost moved to continue the matter for two weeks to evaluate the*  
7 *application. Commissioner Armstrong seconded the motion. Vote on motion: J. Thomas*  
8 *Bowen-Aye, Geoff Armstrong-Aye, JoAnn Frost-Aye, Jim Keane-Aye, Gordon Nicholl-Aye,*  
9 *Sue Ryser-Aye. The motion passed.*

10  
11 **3. Application Withdrawn – Home Based Daycare – Community Treatment**  
12 **Alternatives.**

13  
14 The above item was withdrawn from the agenda.

15  
16 **4. Public Hearing – Zone Change – Highland House.**

17  
18 (19:25:00) Mr. Black reported that slightly over one year ago, the Commission looked at  
19 property at 8052 South Highland Drive. It was known as the Highland House and owned by  
20 Garry Kershaw. The request at that time was to rezone the property from Rural Residential to  
21 Neighborhood Commercial. He noted that the request was consistent with the General Plan at  
22 the time. There was a lot of opposition from the neighborhood and because of that, the applicant  
23 decided to withdraw his zone change application. Staff and the applicant suggested possibilities  
24 for the properties on the street if they were not rezoned Neighborhood Commercial. In working  
25 with the adjoining neighborhood, they were able to come up with a zone called the Residential  
26 Office Zone, which would exclude uses like grocery stores, bars, dry cleaners, fast food  
27 restaurants, and convenience stores. It made for a better transition from a busy road to a  
28 neighborhood. He stated that the zone was initiated because of the Kershaw property.

29  
30 Mr. Black stated that the zoning was approved for use in the City and the General Plan was  
31 amended, however, the applicant never continued his application through the process to effect a  
32 zone change to his property. Mr. Kershaw wanted to bring his property into compliance, which  
33 was being used as a bed and breakfast. It also served at times as a reception center. The request  
34 was to rezone the property from Rural Residential to Residential Office. Staff recommended  
35 approval of the request because it was consistent with the General Plan and had setbacks that  
36 were conducive to the proposed use.

37  
38 (19:28:00) The applicant, Garry Kershaw, gave his address as 8052 Highland Drive. He thanked  
39 Mr. Black and remarked that in working with him he found him to be very cordial, patient,  
40 knowledgeable, and fair. He stated that it took over one year to complete the General Plan and  
41 recognized there was a lot of input along the way. He thought the result was a good plan.  
42 Businesses in the neighborhood got together and worked on what they thought would be  
43 compatible with the neighborhood given the fact that Neighborhood Commercial didn't quite fit.  
44 They obtained input and submitted it to the Planning Commission who made a few changes. In  
45 the end, the City adopted much of what was submitted. He thought the zoning was something  
46 the neighborhood could live with and felt good about.

1  
2 Mr. Kershaw discussed the bed and breakfast business and stated that to his knowledge, they  
3 were the only bed and breakfast in Cottonwood Heights. They offered a nice alternative to  
4 typical hotels. He reported that when notice of the zone change went out they received several  
5 calls. Many did not realize he was operating as a bed and breakfast and thought it was a  
6 residence. Mr. Kershaw thought that was a good thing since the residential look of the  
7 neighborhood was being maintained. He stated that by itself, the bed and breakfast business had  
8 its challenges. They would struggle without the ability to supplement it. The facility had only  
9 two or three suites, which created a unique challenge.

10  
11 The public hearing was opened.

12  
13 (19:36:20) Stacy Newberry identified herself as a Meyer Vista Cove resident to the north. She  
14 expressed concern with the weddings that had taken place on the site over the summer. Her  
15 home backed the east side of Highland Drive and she had seen cars parked up and down  
16 Highland Drive. She was concerned that there was inadequate parking. If the applicant was  
17 looking to do primarily a bed and breakfast, she suggested the zoning remain R-1-43 and allow  
18 the bed and breakfast under a conditional use permit rather than changing the zoning. She was  
19 also worried about the Nelson property, which had the same zoning. She asked when reception  
20 centers became part of the RO Zone. Mr. Black explained that the zone was examined because  
21 of the Kershaw property and staff realized early on that reception centers would be one of the  
22 included uses. The regulations were the question and how to regulate the use so that it doesn't  
23 affect the property owners that abut it.

24  
25 Mr. Black remarked that because of the setbacks of the Kershaw property, a precedent was not  
26 being set. Setback issues were discussed. Ms. Newberry did not think there was adequate  
27 parking and had spoken with others that reported that there had been excessive noise coming  
28 from the site. She asked how weddings had been conducted without Mr. Kershaw having had  
29 the proper permits and zoning. Weddings and other events had been taking place weekly at the  
30 site for the last year. She recommended a conditional use permit be pursued rather than a zone  
31 change.

32  
33 (19:38:54) Bruce Evans gave his address as 1986 Farm Circle. His understanding was that the  
34 request tonight was to approve a zone change. The next step would be a hearing for a  
35 conditional use.

36  
37 There were no further public comments. The public hearing was closed.

38  
39 Commissioner Ryser lives in the area and stated that the zone change had been in the works for  
40 several years. She remarked that Mr. Kershaw ran a nice business and it had been a good use in  
41 a problem area. She was well aware of the parking issue and pointed out that the change in  
42 zoning would actually give the City better control and the ability to address problems with the  
43 owners and neighbors.

44  
45 (19:39:40) *Commissioner Ryser moved to recommend approval of the zone change.*  
46 *Commissioner Armstrong seconded the motion. Vote on motion: J. Thomas Bowen-Aye,*

1 *Geoff Armstrong-Aye, JoAnn Frost-Aye, Jim Keane-Aye, Gordon Nicholl-Aye, Sue Ryser-Aye.*  
2 *The motion passed.*  
3

4 **5. Public Hearing – Site Plan Review Ordinance.**  
5

6 (19:41:55) Mr. Black presented the staff report and stated that there was a public hearing  
7 requirement for any new ordinance. The proposed ordinance dealt with how plans are reviewed  
8 in the City, what developers are required to submit, and the process. The latest draft of the  
9 ordinance was provided. It still needed to go through the Development Review Committee for  
10 comment. An attachment was included with recommended rules and regulations. The  
11 opportunity for rules and regulations had been included with all of the new zones. It would  
12 allow for certain changes without changing the ordinance. Mr. Black stated that some changes  
13 had been incorporated into the ordinance and there was time to make more changes, if desired.  
14 He recognized the document was not yet ready to be forwarded on to the City Council.  
15

16 Chair Bowen opened the public hearing. There were no public comments. The public hearing  
17 was closed.  
18

19 Mr. Black agreed to provide the Commission with an updated draft including the DRC  
20 comments at the next meeting. Chair Bowen noticed in the document reference to a requirement  
21 that addresses of adjacent property owners be provided. He wondered if that language was  
22 redundant.  
23

24 Commissioner Nicholl referred to fence height under page 1, item b. He realized that  
25 requirements were included in the fencing ordinance and questioned whether a maximum height  
26 was necessary.  
27

28 **6. Discussion Item – Short Term Rentals.**  
29

30 (19:45:10) Mr. Black reported that the Commission previously received a copy of the ordinance.  
31 He stated that the matter was currently under a moratorium. He asked for guidance from the  
32 Commission on a couple of options. The first pertained to determining which streets in the R-1-  
33 8 Zone short-term rentals would be allowed on. Another option was to remove short-term rentals  
34 from the R-1-8 Zone altogether. He remarked that every time they had studied short-term  
35 rentals in the R-1-8 Zone, they found detrimental effects to adjacent neighbors.  
36

37 R-2 options were discussed. Mr. Black stated that R-2 uses were often clustered together. They  
38 would function similar to a single-family residence and were often imbedded in single-family  
39 areas. Those short-term rentals could be a detriment to a single-family neighborhood even  
40 though they are zoned R-2.  
41

42 Chair Bowen recommended short-term rentals be amortized out and eliminated altogether.  
43 Commissioner Armstrong recognized that no one wanted them as a next-door neighbor.  
44 Mr. Black stated that there would be a lot involved in amortizing them out. He did not think the  
45 Council would support it and suspected they would send the matter back to the Commission.

1 The Council was, however, willing to look at an ordinance that puts a cap on the number of  
2 short-term rentals.

3  
4 Commissioner Frost viewed the situation as serious and believed short-term rentals had earned  
5 their bad reputation. If they were accountable and good neighbors, the situation would not have  
6 gotten out of hand.

7  
8 (19:48:53) Chair Bowen proposed that short-term rentals be eliminated from the R-1 zone and a  
9 cap imposed to be forwarded on to the City Council. He understood that it was doubtful that an  
10 amortization would be completed during the six-month moratorium. Chair Bowen suggested  
11 that once submitted to the City Council, an ordinance to amortize them could be dealt with  
12 without worrying about the moratorium. When complete, a recommendation could then be sent  
13 on to the City Council.

14  
15 Commissioner Nicholl thought short-term rentals should be eliminated from R-1 Zones and a cap  
16 imposed. He also suggested eliminating any properties that are standalone R-2.

17  
18 Commissioner Keane favored the elimination of short-term rentals everywhere. He stated that  
19 the City Council could make a different decision if they disagree.

20  
21 Chair Bowen clarified that the ordinance to be drafted by staff should eliminate short-term  
22 rentals from the R-1 and the stand alone R-2 Zones. They should also be capped. The  
23 recommendation should be forwarded on to the City Council. Amortization issues were  
24 discussed. Mr. Black agreed to provide a draft at the next meeting.

25  
26 Mr. Topham reported that Members of the Council indicated they were not interested in the  
27 amortization. That was not to say that an ordinance could not be prepared and forwarded on for  
28 the Council's consideration. Without doing that there was no mechanism to get anything more  
29 than the informal read. Because another ordinance needed to be put in place within the  
30 moratorium period, he suggested something be put in place now that will meet the City's  
31 objectives.

32  
33 **7. Approval of Minutes – May 2, 2007; May 16, 2007; and June 6, 2007.**

34  
35 (19:56:15) Chair Bowen thought it would be helpful for the minutes to be presented for review at  
36 each subsequent Planning Commission Meeting.

37  
38 (19:56:51) *Commissioner Nicholl moved to approve the minutes, as written. Commissioner*  
39 *Frost seconded the motion. Vote on motion: J. Thomas Bowen-Aye, Geoff Armstrong-Aye,*  
40 *JoAnn Frost-Aye, Jim Keane-Aye, Gordon Nicholl-Aye, Sue Ryser-Aye. The motion passed.*

41  
42 **8. Planning Director's Report.**

43  
44 Mr. Black reported that staff had begun a review of the hillside ordinance. Funding was  
45 available to conduct a substantial review of the current ordinance and revise it, including new  
46 stereographic imagery.

1  
2 Commissioner Keane asked that staff address the new Check City facility on the corner of Fort  
3 Union Boulevard. He noticed that stamped concrete was not installed and questioned the  
4 placement of the trash receptacle. Mr. Black reported that he had already sent them a letter. The  
5 correspondence addressed various points and indicated that the City would consider revoking the  
6 conditional use permit if adjustments were not made within 30 days. He estimated that 10 days  
7 had lapsed since the letter was sent.

8  
9 Commissioner Armstrong referred to Building 5 of the Iron Blossom PUD and noticed there was  
10 a 6<sup>th</sup> building to the east that was presumably not part of the project. Mr. Black stated that the  
11 last structure was a standalone home. It was being built by the same builder and would be of the  
12 same style. It would not enter onto Iron Blossom and would instead access onto 7000 South. He  
13 explained that the builder purchased the lot at the same time he purchased Iron Blossom.

14  
15 **9. Adjournment.**

16  
17 *Commissioner Nicholl moved to adjourn. Commissioner Armstrong seconded the motion.*  
18 *Vote on motion: J. Thomas Bowen-Aye, Geoff Armstrong-Aye, JoAnn Frost-Aye, Jim Keane-*  
19 *Aye, Gordon Nicholl-Aye, Sue Ryser-Aye. The motion passed.*

20  
21 The Planning Commission Meeting adjourned at 8:02 p.m.

22 Approved: 8-15-2007 sm



1 *I hereby certify that the foregoing represents a true, accurate and complete record of the*  
2 *Cottonwood Heights City Planning Commission meeting held Wednesday, July 18, 2007.*  
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5

6   
7  
8

9 Teri Forbes  
10 T Forbes Group, Inc.  
11 Minutes Secretary  
12  
13

14 Minutes approved: